

MARTY SCOTT FITZGERALD.,  
  
Plaintiff,  
  
v.  
  
STATE OF NEVADA, *et al.*,  
  
Defendants.

3:09-CV-00286-RCJ-VPC  
  
**ORDER**

**I. Discussion**

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to the magistrate judge’s recommendation, then this Court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.”<sup>1</sup> Nevertheless, the statute does not

1

1 "require[ ] some lesser review by [this Court] when no objections are filed." Thomas v. Arn, 474  
2 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct "any  
3 review at all . . . of any issue that is not the subject of an objection." Id. at 149. Similarly, the  
4 Ninth Circuit has recognized that a district court is not required to review a magistrate judge's  
5 report and recommendation where no objections have been filed. See United States v. Reyna-  
6 Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the  
7 district court when reviewing a report and recommendation to which no objections were made);  
8 see also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth  
9 Circuit's decision in Reyna-Tapia as adopting the view that district courts are not required to  
10 review "any issue that is not the subject of an objection."). Thus, if there is no objection to a  
11 magistrate judge's recommendation, then this Court may accept the recommendation without  
12 review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate  
13 judge's recommendation to which no objection was filed).

14 In this case, there have been no objections filed to the Magistrate Judge's Report and  
15 Recommendation. Although no objection was filed, this Court has reviewed the Report and  
16 Recommendation (ECF No. 30) and accepts it. Accordingly,

17 IT IS HEREBY ORDERED that Defendants' Motion to Dismiss Plaintiff's First Amended  
18 Complaint for Failure to Notify the Court of Plaintiff's Change of Address (ECF No. 24) is  
19 GRANTED.

20 IT IS FURTHER ORDERED that Plaintiff's First Amended Complaint (ECF No. 14) is  
21 DISMISSED WITH PREJUDICE. The Clerk of the Court shall close this case.

22 IT IS SO ORDERED.

23 DATED: This \_\_\_ 4th \_\_\_ day of November, 2011.

24  
25  
26   
27 ROBERT C. JONES  
28 Chief District Court Judge